

REMARKS

Applicant submits these amendments and remarks in response to the Office action dated September 15, 2003. Claims 1-49 are pending in the application. Claims 1, 2, 5-8, 34, 38-40, and 43 stand rejected under 35 U.S.C. § 102. Claims 9-19, 35-37, 41, 42, and 44-49 are objected to. Claims 20-27 are allowed. Applicant has amended the specification. Applicant also has canceled claims 28-33 without prejudice, and has amended claims 1, 3, 5, 7, 9, 17, 34, 35, 37-39, 41, 43, 44, and 47-49. Claims 1-19 and 34-49, as amended, are patentable over the art of record and should be allowed.

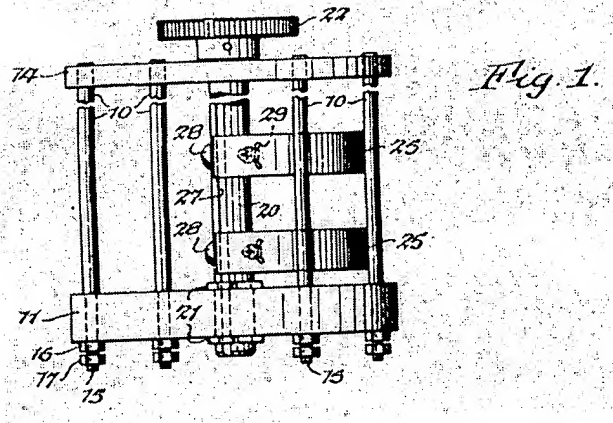
Amendments to the Specification

The amendments clarify that cylindrical contact roller 14 is freely movable or freely rolling within housing 12. Those amendments are fully supported by the specification as originally filed. Specifically, at least Figures 1-9 and page 1, paragraph 3 of the specification discloses a roller 14 that is freely movable or freely rolling within housing 12.

Rejections under 35 U.S.C. § 102

Claims 1, 2, 7, 8, 34, 39, and 40 are rejected under 35 U.S.C. § 102(b) as being anticipated by Smith (U.S. Patent No. 2,384,652), and claims 1, 5-7, 34, 38, and 43 are rejected under 35 U.S.C. § 102(b) as being anticipated by Niconienko (U.S. Patent No. 3,996,440).

Smith discloses a rotary electric switch with the following depicted structure:



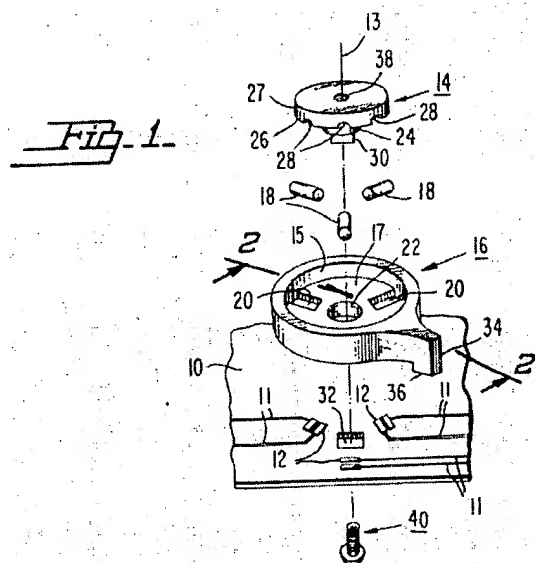
As shown above, Smith discloses a rotary electric switch with contacts 25 attached to shaft 20 and located within base 11. Shaft 20 is rotated by manipulating hand wheel 22 (Smith, p. 1, right column, lns. 33-37). Thus, a user rotates hand wheel 22 to “connect selected conductors” or contacts 25 (Smith, left column, lns. 2-3).

Smith does not disclose contacts that are freely movable within base 11. Smith also does not disclose contacts that move primarily by gravitational forces. Moreover, to alter the configuration of the Smith structure to make the contacts either (a) freely movable or (b) move primarily by gravitational forces would be contrary to the intended purpose of Smith, namely, to connect selected contacts 25 by rotating hand wheel 22.

As noted, applicant has amended claim 1 to specify that the cylindrical contact is freely movable within the annular track. Applicant also has amended claim 34 to specify that the cylindrical contact moves within the annular track primarily by gravitational forces. Additionally, applicant has amended claims 7 and 39 to depend from amended claim 3 and amended claim 35, respectively. As discussed in the next section, claims 3 and 35 have been rewritten in independent form and include all the limitations of original claims 1 and 34, respectively, and are thus allowable.

In view of those amendments, Smith fails to disclose each and every element of claims 1 and 34. Claims 2, 7, 8, 39, and 40, which depends from either claims 1, 3, or 35, are not anticipated by Smith for at least the same reasons as set forth above.

Niconienko discloses a multiposition rotary switch with detent means with the following depicted structure:



As shown above, Niconienko discloses a rotary switch with contact rollers 18 restrained by apertures 20 of body 16. Body 16 is rotated by manipulating lever 34 (Niconienko, col. 4, lns. 26-29). Spring retainer 14 keeps contact rollers 18 in contact with printed circuit board 10 and also provides stopping action when contact rollers 18 touch contact pads 12. The stopping action ensures that contact rollers 18 are "fixed in a set position once that position has been selected" (Niconienko, col. 1, lns. 28-29).

Niconienko does not disclose contact rollers that are freely movable within body 16. Niconienko also does not disclose contact rollers that move primarily by gravitational forces. Moreover, to alter the configuration of the Niconienko structure to make the contacts either

(a) freely movable or (b) move primarily by gravitational forces would be contrary to the intended purpose of Niconienko, namely, to fix contact rollers 18 in a set position once that position has been selected.

As discussed above, applicant has amended claim 1 to specify that the cylindrical contact is freely movable within the annular track. Applicant also has amended claim 34 to specify that the cylindrical contact moves within the annular track primarily by gravitational forces. Additionally, applicant has amended claims 5, 7, 39, and 43 to depend from either amended claim 3 or amended claim 35. As discussed in the next section, claims 3 and 35 have been rewritten in independent form and include all the limitations of original claims 1 and 34, respectively, and are thus allowable.

In view of those amendments, Niconienko fails to disclose each and every element of claims 1 and 34. Claims 5-7, 38, and 43, which depend from either amended claim 3 or amended claim 35, are not anticipated by Niconienko for at least the same reasons as set forth above.

For the reasons discussed above, applicant requests withdrawal of the rejections of claims 1, 2, 5-8, 34, 38-40, and 43 under 35 U.S.C. § 102(b).

Allowable Subject Matter

Applicant thanks the Examiner for the indication that claims 20-27 are allowed and that claims 3-4, 9-19, 35-37, 41, 42, and 44-49 are allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 3, 9, and 17 have been amended in independent form and include all of the limitations of claim 1.

Claims 35, 37, 41, 44, 47, 48, and 49 also have been amended in independent form and include all of the limitations of claim 34.

For the reasons discussed above, applicant requests withdrawal of the objections of claims 3-4, 9-19, 35-37, 41, 42, and 44-49.

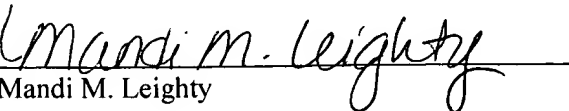
Regarding the Examiner's indication of reasons for allowability of claims 3-4, 9-27, 35-37, 41, 42, and 44-49, applicant notes that the Examiner paraphrases applicant's claimed invention. Although applicant agrees with the Examiner's conclusions regarding the indication of allowability of the allowed claims, he does not necessarily agree with or acquiesce in the Examiner's reasoning. In particular, applicant believes that the application is allowable because the prior art fails to teach or suggest the invention as claimed, independent of how the invention is paraphrased.

The above amendments and remarks are believed to address fully the Examiner's rejections, and place the application in condition for allowance. A prompt indication of the same respectfully is requested. The Examiner is encouraged to telephone the undersigned if any issues remain that may be resolved by a telephonic interview.

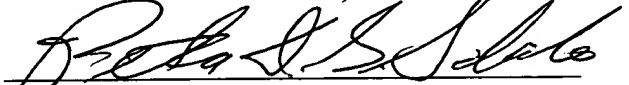
Respectfully submitted,

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP: FEE AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 12, 2003.


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